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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,725	09/26/2003	Toshikazu Yamauchi	OKI378	6644
23995	7590	06/01/2005	EXAMINER	
RABIN & Berdo, PC 1101 14TH STREET, NW SUITE 500 WASHINGTON, DC 20005			TADASSE, YEWEBDAR T	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

ML

**Office Action Summary**

Application No.

10/670,725

Applicant(s)

YAMAUCHI, TOSHIKAZU

Examiner

Yewebdar T. Tadesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 7-9 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 6 is/are rejected.
- 7) ☒ Claim(s) 10-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 recites (see line 8) the limitation "said nozzle" in the claim. There is insufficient antecedent basis for this limitation in the claim. For the purpose of examination "said nozzle tip" is assumed. Claim 12 also recites (see line 4) the limitation "the nozzle" in claim 10. There is insufficient antecedent basis for this limitation in the claim. For the purpose of examination "the nozzle tip" is assumed.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Kitano et al (US 2002/0124798 A1).

As to claim 1, Kitano et al discloses (see Fig 6, paragraphs 66-67) a resist applying device comprising an air-bubble collecting part provided on a resist flow passage at a predetermined part of a nozzle pipe directly connected to a nozzle tip (a check portion K with the outlet pipe 96 is provided on the photoresist flow passage of store portion 90a at predetermined position of a nozzle pipe and suction apparatus 102 in communication with the outlet pipe 96, which is connected to the discharge nozzle 85).

As to claim 6, in Kitano et al the check portion K the nozzle pipe (96) is transparent (see paragraph 66).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 2-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitano et al (US 2002/0124798 A1) as applied to claim 1 and further in view of JP-09206584. As to claim 2-3, Kitano et al lacks teaching a nozzle pipe having an external appearance in a shape of curved in an inverted U-form or a shape as continuing in a rise part, a horizontal part and a fall part. However, JP'584 discloses (see Abstract and Figs 1 and 6) a nozzle pipeline used for a liquid chemical in semiconductor manufacturing process, wherein the pipe line having an external appearance in a shape of an inverted U-form (see Fig 6) and a shape as continuing in a rise part, a horizontal part and a fall part (see Fig 1). It would have been obvious to one of ordinary skill in the art at the time the invention to shape Kitano et al's pipeline (outlet pipe 96) as continuing in a rise part, a horizontal part and a fall part to easily remove a gas outside the pipe line as taught by JP'584 (see English translation Abstract). It would also have also been obvious to one of ordinary skill in the art at the time the invention was made to form the external appearance of Kitano et al's piping in an inverted U shape as desired in similar way as shown by JP'584. Regarding claim 5, Kitano et al's pipeline as modified by JP'584 is capable of being designed to have an internal bulk of pipe securing a photoresist amount greater than a photoresist amount of once projection.

***Allowable Subject Matter***

8. Claims 4 and 7-9 are allowed.

9. Claims 10-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: As to claims 10-13, there is no reference in the prior art search that disclosed, taught or suggested a photoresist applying device comprising, among others, a nozzle pipe having a first end and a second end, through which photoresist flows in a direction from the first end to the second end and a nozzle tip through which the photoresist discharged connected to the second end; wherein the pipe has an air-bubble collecting part disposed between the first end and the second end and through which the photoresist flows prior to being discharged through the nozzle tip.

***Response to Arguments***

11. Applicant's arguments (regarding claims 1-3 and 5-6) filed 03/16/2005 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the photoresist flows in the nozzle pipe) are not recited in the rejected claim(s).

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Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As shown in the rejection above the air collecting part of Kitano et al device (the check portion K with the outlet pipe 96 is provided on the photoresist flow passage of the *store portion 90a*, which is part of the photoresist flow passage.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T. Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4: 30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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